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Final Fiscal Note

Drafting Number: LLS 22-0572
Prime Sponsors: Rep. Mullica
Sen. Moreno

Date: September 15, 2022
Bill Status: Signed into Law
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Bill Topic: HOSPITAL NURSE STAFFING STANDARDS

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill creates regulations for nurse staffing levels in hospitals, requires hospitals to establish a nurse staffing committee, requires the Department of Public Health and Environment to promulgate rules and enforce nurse staffing standards, and makes changes to the hospital report card. The bill increases state expenditures beginning in FY 2022-23, and state revenue beginning in FY 2023-24.

Appropriation Summary:

For FY 2022-23, the bill requires and includes an appropriation of \$785,279 to multiple state agencies.

Fiscal Note Status:

The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 22-1401

		Budget Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	-	\$770,000	\$770,000
	Total Revenue	-	\$770,000	\$770,000
Expenditures	General Fund	\$785,279	\$744,041	\$262,466
	Cash Funds	-	-	\$445,002
	Central. Approp.	\$145,290	\$140,962	\$223,023
	Total Expenditures	\$930,569	\$885,003	\$930,491
	Total FTE	7.1 FTE	6.9 FTE	6.5 FTE
Transfers		-	-	
Other Budget Impacts	GF Reserve	\$117,792	\$111,606	\$39,370
	TABOR Refunds	-	\$770,000	<i>not estimated</i>

Summary of Legislation

By September 1, 2022, each hospital is required to establish a nurse staffing committee pursuant to rules promulgated by the Board of Health. Among its responsibilities, the nurse staffing committee is required to:

- develop and oversee a master nurse staffing plan for the hospital;
- describe in writing the process for receiving, tracking, and resolving complaints and receiving feedback on the staffing plan from clinical staff nurses and other staff; and
- make the complaint and feedback process available to all providers, including clinical staff nurses, nurse aides, and EMS providers.

The Department of Public Health and Environment (CDPHE) is required to survey and investigate each hospital, as necessary, for purposes of infection control and emergency preparedness, and to ensure compliance with the nursing staffing standards established in rules promulgated by the Board of Health. Among other provisions, a hospital:

- is required to submit the nurse staffing plan to the CDPHE, evaluate the staffing plan, and report to the CDPHE, as specified in the bill;
- is prohibited from assigning a clinical staff nurse, a nurse aide, or an EMS provider to a hospital unit without sufficient training and ability to provide competent care;
- is required to report, in a form and manner determined by rules promulgated by the Board of Health, the baseline number of beds the hospital is able to staff in order to provide patient care and the hospital's current bed capacity by September 1, 2022, as determined by rules promulgated by the Board of Health; and
- is required to articulate in its emergency plan an ability to increase its capacity in certain circumstances, as outlined under the bill;
- is required to update its emergency plan at least annually; and
- may be fined by the CDPHE up to \$10,000 per day for certain infractions beginning September 1, 2022.

The CDPHE is required to annually report on the information contained in the quarterly report during its SMART Act hearing.

The CDPHE may promulgate rules to require health facilities to develop and implement infection prevention plans that align with national best practices and standards and that are responsive to COVID-19 and other communicable diseases.

The Office of Saving People Money on Health Care is required to study and report to the Governor by January 1, 2023, and annually thereafter, its findings on the level of preparedness of health facilities to respond to post-viral illness resulting from the COVID-19 virus, the effects of post-viral illness resulting from the COVID-19 virus on the health and the financial security of the people of Colorado, and the effects of the COVID-19 pandemic on the cost of health care in Colorado and on the ability of Colorado's public health system to respond to emergencies, and coordinate, monitor and support efforts to improve affordability of health care and outcomes, and public health readiness in state programs and departments.

The Colorado hospital report card is required to include general and public hospital clinical outcome measures as specified in the bill. In addition, the Board of Health must promulgate rules to establish nursing-sensitive quality measures to be included in the report card for certain hospitals, including skills mix, nursing hours per patient per day, voluntary turnover, patient fall prevalence rate, patient falls with injury, and recorded incidences of violence against staff.

Assumptions

Under the bill, it is assumed that:

- about 110 hospitals are subject to the requirements of the bill;
- hospitals will be surveyed every three years, with a survey requiring 180 hours of staff time;
- 30 percent of hospitals will receive complaints, with each complaint requiring 40 hours of investigation;
- 25 percent of hospitals in the first year and 10 percent of hospitals in the second year will request a waiver from the requirements, which each requiring 8 hours of review;
- each staffing plan will be reviewed annually, at a two hours per review;
- 50 percent of hospital surveys will require travel, at three nights of travel per staff per survey;
- quarterly reports will require one hour of staff time to review, at four hours per facility per year; and
- the activities of the bill will be funded by the General Fund until FY 2024-25, at which time, fee revenue will fund a portion of the activities under the bill.

State Revenue

This bill will increase fee revenue to the General Licensure Cash Fund in the CDPHE by \$770,000 per year beginning in FY 2023-24.

Fee impact on hospitals. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, and actual fees will be set administratively by the CDPHE based on cash fund balance, estimated program costs, and the estimated number of hospitals subject to the fee. The table below identifies the fee impact of the bill.

Table 2
Fee Impact on Hospitals

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2023-24	Supplemental Fee	\$7,000	110	\$770,000
FY 2024-25	Supplemental Fee	\$7,000	110	\$770,000

To the extent that hospitals are assessed fines or penalties, funds in the Hospital Facilities General Licensure Cash Fund will increase. Fine revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in multiple state departments by \$930,569 in FY 2022-23, \$885,003 in FY 2023-24, and \$930,491 in FY 2024-25. Costs are initially paid from the General Fund; beginning in FY 2024-25, CDPHE expenditures will be partially paid from the General Licensure Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
Expenditures Under HB 22-1401**

Cost Components	FY 2022-23	FY 2023-24	FY 2024-25
Department of Public Health and Environment			
Personal Services	\$551,066	\$529,100	\$493,067
Operating Expenses	\$9,045	\$7,965	\$7,425
Capital Outlay Costs	\$43,400	-	-
Travel Costs	\$41,829	\$55,760	\$55,760
Centrally Appropriated Costs ¹	\$128,879	\$121,979	\$204,040
FTE – Personal Services	6.2 FTE	5.9 FTE	5.5 FTE
CDPHE Subtotal	\$774,219	\$714,804	\$760,292
Governor’s Office			
Personal Services	\$82,389	\$99,866	\$99,866
Operating Expenses	\$1,350	\$1,350	\$1,350
Capital Outlay Costs	\$6,200	-	-
Consulting Contractor	\$50,000	\$50,000	\$50,000
Centrally Appropriated Costs ¹	\$16,411	\$18,983	\$18,983
FTE – Personal Services	0.9 FTE	1.0 FTE	1.0 FTE
Governor’s Subtotal	\$156,350	\$170,199	\$170,199
Total	\$930,569	\$885,003	\$930,491
Total FTE	7.1 FTE	6.9 FTE	6.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. Beginning in FY 2022-23, the CDPHE requires funding for staff and travel associated with the requirements of the bill.

- *Staffing.* Beginning FY 2022-23, the CDPHE requires 6.7 FTE, decreasing to 5.9 FTE in FY 2023-24, to conduct stakeholder engagement, support rulemaking activities, monitor hospitals for compliance, and perform data collection, analysis and reporting. Standard operating and capital outlay costs are included and personal services costs are adjusted for the General Fund pay date shift.

- *Travel.* Beginning in FY 2022-23, the fiscal note assumes that on-site visits to each hospital will occur every three years, at an estimated overall cost of \$41,829 in the first year, increasing to \$55,760 in FY 2023-24 and subsequent years.

Governor's Office. Beginning in FY 2022-23, the Governor's Office requires funding for staffing and contractor services.

- *Staffing.* The Office of Saving People Money on Health Care requires 1.0 FTE to collect and analyze data, and draft a report. Standard operating and capital outlay costs are included and personal services costs are adjusted for the General Fund pay date shift.
- *Consulting.* A contract consultant is required to assist with data analysis, acquisition of private data sets as needed, and report drafting, at an estimated cost of \$50,000.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

This bill was signed into law by the Governor and took effect on May 18, 2022.

State Appropriations

For FY 2022-23, the bill requires and includes a General Fund appropriation of \$645,340 to the Department of Public Health and Environment, and 6.2 FTE, and \$139,939 to the Governor's Office, and 0.9 FTE.

Departmental Difference

The CDPHE estimates it requires \$931,906 and 7.5 FTE in FY 2022-23, \$869,639 and 7.3 FTE in FY 2023-24, and \$760,292 and 5.5 FTE in FY 2024-25 and future years to implement the bill, assuming personal services costs are adjusted for the General Fund pay date shift in the first year. The department estimate includes an additional approximately 1.4 FTE Nurse Consultant in FYs 2022-23 and 2023-24, relative to the fiscal note estimate, based on the following assumptions:

- routine surveys will be performed at approximately 37 hospitals per year, requiring 200 hours of staff time per survey;
- 35 percent of hospitals will receive complaints, with each complaint requiring 80 hours of investigation; and
- 25 percent of hospitals in the first year and 10 percent of hospitals in the second year will request a waiver from the requirements, which each requiring 10 hours of review.

The fiscal note includes 4.0 FTE Nurse Consultant in FY 2022-23 and ongoing as an appropriate level of staffing, per the assumptions noted in the Assumptions section above.

State and Local Government Contacts

Governor
Law

Health Care Policy and Financing
Public Health and Environment

Information Technology